

AMENDED IN SENATE APRIL 9, 2013

SENATE BILL

No. 526

Introduced by Senator Calderon

February 21, 2013

~~An act to amend Section 2954.8 of the Civil Code, relating to banks.~~
An act to add Section 23026.5 to the Financial Code, relating to deferred deposit transactions.

LEGISLATIVE COUNSEL'S DIGEST

SB 526, as amended, Calderon. ~~Banks; mortgage loans; advance payments.~~ *Deferred deposit transactions.*

Existing law, the California Deferred Deposit Transaction Law, provides for the licensure and regulation by the Commissioner of Corporations of persons engaged in the business of originating or making deferred deposit transactions, as defined. Existing law requires a licensee to file an annual report with the commissioner. Existing law requires the commissioner to prepare an annual consolidated report based upon specified information received from licensees.

The Governor's Reorganization Plan No. 2 of the 2011–12 Regular Session provides that, on and after July 1, 2013, the responsibilities of the Department of Corporations and the Commissioner of Corporations shall be transferred to the Department of Business Oversight and the Commissioner of Business Oversight.

This bill would require the commissioner to include in the annual consolidated report specified information related to the practices of unlicensed deferred deposit lenders that make or originate deferred deposit transactions through the Internet to borrowers in this state. The bill would also require the department to report to the Legislature its recommendations with regard to those practices, as specified.

~~Existing state and federal law define and regulate banks. Existing state law requires a financial institution that makes loans secured by residential real property, as specified, that receives money in advance for payment of taxes and assessments on the property, for insurance, or for other purposes relating to the property, to pay interest on the amount held to the borrower.~~

~~This bill would make nonsubstantive, technical amendments to these provisions:~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *It is the intent of the Legislature in enacting these*
2 *provisions to address the abhorrent and illegal practices employed*
3 *by unlicensed deferred deposit lenders that make or originate*
4 *deferred deposit transactions through the Internet to borrowers*
5 *in this state, including, but not limited to, to address the collection*
6 *practices employed by these lenders.*

7 SEC. 2. *Section 23026.5 is added to the Financial Code, to*
8 *read:*

9 23026.5. (a) *The commissioner shall include in the annual*
10 *consolidated report prepared pursuant to Section 23026 an*
11 *analysis of the practices of unlicensed deferred deposit lenders*
12 *that make or originate deferred deposit transactions through the*
13 *Internet to borrowers in this state, including, but not limited to,*
14 *an analysis of the collection practices employed by these lenders.*
15 *The analysis shall also include the rates and terms offered by these*
16 *lenders and the extent to which these lenders comply with, or do*
17 *not comply with, the California Deferred Deposit Transaction*
18 *Law. The commissioner shall also include in the annual*
19 *consolidated report a summary of the department's compliance*
20 *efforts regarding unregulated and unlicensed deferred deposit*
21 *lending through the Internet to borrowers in this state.*

22 (b) (1) *On or before January 1, 2015, the department shall*
23 *report to the Legislature its recommendations pertaining to the*
24 *regulation and enhancement of its enforcement authority with*
25 *regard to unlicensed deferred deposit lenders that make or*
26 *originate deferred deposit transactions through the Internet to*
27 *borrowers in this state. The department shall make*

1 *recommendations with regard to changes to law that may minimize*
2 *adverse consumer experiences.*

3 (2) *The report to be submitted pursuant to paragraph (1) shall*
4 *be submitted in compliance with Section 9795 of the Government*
5 *Code.*

6 (3) *The requirement for submitting a report pursuant to*
7 *paragraph (1) shall become inoperative on January 1, 2019,*
8 *pursuant to Section 10231.5 of the Government Code.*

9 SECTION 1. ~~Section 2954.8 of the Civil Code is amended to~~
10 ~~read:~~

11 ~~2954.8. (a) Every financial institution that makes loans upon~~
12 ~~the security of real property containing only a one- to four-family~~
13 ~~residence and located in this state, or purchases obligations secured~~
14 ~~by the property, and that receives money in advance for payment~~
15 ~~of taxes and assessments on the property, for insurance, or for~~
16 ~~other purposes relating to the property, shall pay interest on the~~
17 ~~amount held to the borrower. The interest on these amounts shall~~
18 ~~be at the rate of at least 2 percent simple interest per annum. This~~
19 ~~interest shall be credited to the borrower's account annually or~~
20 ~~upon termination of the account, whichever is earlier.~~

21 ~~(b) No financial institution subject to the provisions of this~~
22 ~~section shall impose any fee or charge in connection with the~~
23 ~~maintenance or disbursement of money received in advance for~~
24 ~~the payment of taxes and assessments on real property securing~~
25 ~~loans made by the financial institution, or for the payment of~~
26 ~~insurance, or for other purposes relating to such real property, that~~
27 ~~will result in an interest rate of less than 2 percent per annum being~~
28 ~~paid on the moneys so received.~~

29 ~~(c) For the purposes of this section, "financial institution" means~~
30 ~~a bank, savings and loan association or credit union chartered under~~
31 ~~the laws of this state or the United States, or any other person or~~
32 ~~organization making loans upon the security of real property~~
33 ~~containing only a one- to four-family residence.~~

34 ~~(d) The provisions of this section do not apply to any of the~~
35 ~~following:~~

36 ~~(1) Loans executed prior to the effective date of this section.~~

37 ~~(2) Moneys that are required by a state or federal regulatory~~
38 ~~authority to be placed by a financial institution other than a bank~~
39 ~~in a non-interest-bearing demand trust fund account of a bank.~~

1 ~~The amendment of this section made by the 1979-80 Regular~~
2 ~~Session of the Legislature shall only apply to loans executed on~~
3 ~~or after January 1, 1980.~~

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